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10 Attorneys for Cross-Defendant ROSENDIN ELECTRIC, INC.

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 UNITED STATES OF AMERICA,) Case No.: 3:07-CV-02564 CRB
14)
15 Plaintiff,)
16 v.) **STATUS MEMORANDUM**
17)
18 DICK/MORGANTI,)
19 Defendant.)

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21 Cross Defendant Rosendin Electric, Inc. ("Rosendin") submits this
22 memorandum addressing the issues on which this Court requested briefing in its order
23 of August 27, 2007. Those questions are:

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1 **A. Whether The Third-Party Defendant Has Heretofore Presented Any**
2 **Claims Against Dick/Morganti In Connection With Subcontracting**
3 **Work It Performed On The Project, And If So, A Brief Description Of**
4 **The Discrete Claims Presented.**

5 Rosendin has submitted claims against Dick/Morganti in connection with its
6 subcontracting work on the project. Those claims include compensation for additional
7 costs incurred for its field supervision, material handling, project manager and jobsite
8 administrative assistant. In addition, the claims include compensation for escalated
9 labor costs and material costs during the course of the project. Additional claims have
10 been made for labor inefficiencies and miscellaneous other escalated costs. Rosendin
11 has submitted claims interest/financing costs and unresolved change order requests on
12 the Project. Finally, Rosendin has submitted claims for amounts due from
13 Dick/Morganti for contract work which has not been paid to date. At this time, these
14 claims exceed \$7.2 million.

15 **B. Whether The Third Party Defendant Plans To Advance Any Claims Not**
16 **Heretofore Presented To Dick/Morganti In Connection With The**
17 **Subcontracting Work It Performed On The Project.**

18 At this time, Rosendin does not intend to submit any types of claims other than
19 those already submitted. Nevertheless, Rosendin reserves the right to do so if it
20 discovers facts supporting the submission of such claims.

21 **C. When The Third Party Defendant Presented Its Claims To**
22 **Dick/Morganti.**

23 Rosendin has submitted its claims to Dick/Morganti throughout the duration of
24 the project. The most recent general summary of the claims was submitted to
25 Dick/Morganti in March of 2007.

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D. Whether, And When, The GSA Initially Adjudicated These Claims.

Rosendin does not know whether its claims have been submitted to the GSA but, at this time, it believes that Dick/Morganti has not submitted them.

E. Whether, And When, The Third-Party Defendant Sought Certification Of Its Claims By Dick/Morganti Pursuant To 41 U.S.C. § 605(C)(1).

Since, with few exceptions, Rosendin cannot certify that the GSA is responsible for payment of the claims it has submitted, Rosendin has not sought certification of those claims by Dick/Morganti pursuant to 41 U.S.C. Section 605(C)(1). That is, with few exceptions, it appears that the source of the Rosendin's claims the mismanagement of the project by Dick/Morganti and not the conduct of the GSA.

F. As To Any Of The Third-Party Defendant's Claims That Were Certified And Submitted To The "Contract Officer" More Than Sixty (60) Days Ago, Whether The Contract Officer Has Yet Discharged Its Duty Under 41 U.S.C. § 605(C)(2) To "Issue A Decision" Or "Notify The Contractor Of The Time Within Which A Decision Will Be Issued."

As noted above, Rosendin does not believe that any of its claims have been submitted to the GSA.

G. Whether, And Why, The Third-Party Defendant Believes That Its Claims For Uncompensated (Or Under-Compensated) Subcontracting Work On The Project Will Be Affected By Adjudication Of The Claims Advanced By Webcor In This Lawsuit.

To the extent that the claims asserted by Webcor involve issues that are related to the claims raised by Rosendin, Rosendin believes that those issues should be resolved in this lawsuit. There may be factual issues which are common to both sets of claims and judicial economy suggests that they be resolved in one action.

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PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of eighteen (18) years and not a party to the within action or proceeding. My business address is 3480 Buskirk Avenue, Suite 200, Pleasant Hill, California 94523, which is located in the county in which the within mentioned mailing occurred. I am familiar with the practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence will be deposited with the United States Postal Service on the same day in the ordinary course of business.

On the date entered below, I served the within:

STATUS MEMORANDUM

on the parties in said action by placing a true copy thereof as indicated below, addressed as follows:

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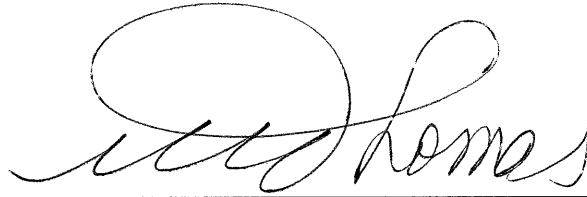
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1 I declare under penalty of perjury under the laws of the State of California that
2 the foregoing is true and correct.

3 DATED: September 21, 2007

A handwritten signature in black ink, appearing to read "Missy D. Thomas". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

MISSY D. THOMAS